



Inland Empire Waterkeeper

Advocacy • Education • Restoration • Enforcement

6876 Indiana Ave Suite D
Riverside, California 92506

November 19, 2012

VIA CERTIFIED MAIL

Inland Regional Material Recovery Facility
and Transfer Station
Attn: Managing Agent
2059 East Steel Road
Colton, California 92324

Republic Waste Services of Southern
California, LLC
18500 North Allied Way
Phoenix, Arizona 85054

Taormina Industries, Inc.
2059 East Steel Road
Colton, California 92324

Republic Services, Inc.
110 Southeast 6th Street, Suite 2800
Fort Lauderdale, Florida 33301

VIA U.S. MAIL

C T Corporation System
(Registered Agent for Taormina Industries,
Inc.)
818 West Seventh Street, Second Floor
Los Angeles, California 90017

C T Corporation System
(Registered Agent for Republic Waste
Services of Southern California, LLC)
818 West Seventh Street, Second Floor
Los Angeles, California 90017

C T Corporation System
(Registered Agent for Republic Services, Inc.)
818 West Seventh Street, Second Floor
Los Angeles, California 90017

Re: Notice of Violation and Intent to File Suit Under the Clean Water Act

To Whom It May Concern:

I am writing on behalf of Inland Empire Waterkeeper and Orange County Coastkeeper (collectively "Waterkeeper") in regard to violations of the Clean Water Act¹ and California's Storm Water Permit² occurring at: 2059 East Steel Road, Colton, California 92324 ("Colton Facility"). The purpose of this letter is to put the owner(s) and/or operator(s) of the Colton Facility³ on notice of the violations of the Storm Water Permit occurring at the Colton Facility,

¹ Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*

² National Pollution Discharge Elimination System ("NPDES") General Permit No. CAS000001 [State Water Resources Control Board] Water Quality Order No. 92-12-DWQ, as amended by Order No. 97-03-DWQ.

³ The owners and/or operators of the Colton Facility are identified in Section I.B. below.

including, but not limited to, violations caused by discharges of polluted storm water from the Colton Facility into local surface waters. Violations of the Storm Water Permit are violations of the Clean Water Act. As explained below, the Colton Facility owners and/or operators are liable for violations of the Storm Water Permit and the Clean Water Act.

Section 505(b) of the Clean Water Act, 33 U.S.C. § 1365(b), requires that sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Clean Water Act, 33 U.S.C. § 1365(a), a citizen must give notice of his/her intention to file suit. Notice must be given to the alleged violator, the Administrator of the United States Environmental Protection Agency ("EPA"), the Regional Administrator of the EPA, the Executive Officer of the water pollution control agency in the State in which the violations occur, and, if the alleged violator is a corporation, the registered agent of the corporation. *See* 40 C.F.R. § 135.2(a)(1). This letter is being sent to you as the responsible owner(s), officer(s), and/or operator(s) of the Colton Facility, or as the registered agent for these individuals and entities. By this letter ("Notice Letter"), issued pursuant to 33 U.S.C. §§ 1365(a) and (b) of the Clean Water Act, Waterkeeper puts the Colton Facility owners and/or operators on notice that, after the expiration of sixty (60) days from the date of this letter, Waterkeeper intends to file an enforcement action in Federal court against them for violations of the Storm Water Permit and the Clean Water Act.

I. Background

A. Inland Empire Waterkeeper and Orange County Coastkeeper

Waterkeeper is a chapter of Orange County Coastkeeper. Waterkeeper's office is located at 6876 Indiana Avenue, Suite D, Riverside, California 92506. Orange County Coastkeeper is a non-profit public benefit corporation organized under the laws of the State of California with its office at 3151 Airway Avenue, Suite F-110, Costa Mesa, California 92626. Together, Waterkeeper and Orange County Coastkeeper have over 2,000 members who live and/or recreate in and around the Santa Ana River watershed. Waterkeeper is dedicated to the preservation, protection, and defense of the environment, wildlife, and natural resources of Inland Empire area receiving waters. To further these goals, Waterkeeper actively seeks Federal and State agency implementation of the Clean Water Act, and, where necessary, directly initiates enforcement actions on behalf of itself and others.

Members of Waterkeeper use and enjoy the Santa Ana River and its tributaries, and the Pacific Ocean (collectively "Receiving Waters"), into which pollutants from the Colton Facility's ongoing illegal activities are discharged. Members of Waterkeeper use the Receiving Waters to fish, sail, boat, kayak, swim, hike, view wildlife, and engage in scientific study including monitoring activities. The discharge of pollutants from the Colton Facility impairs each of these uses. Further, the Colton Facility's discharges of polluted storm water are ongoing and continuous. As a result, Waterkeeper's members' use and enjoyment of the Receiving Waters has been and continues to be adversely impacted. Thus, the interests of Waterkeeper's members have been, are being, and will continue to be adversely affected by Colton Facility Owners' and/or Operators' failure to comply with the Clean Water Act and the Storm Water Permit.

B. The Owners and/or Operators of the Colton Facility

Industrial dischargers are required to apply for coverage under the Storm Water Permit by submitting a Notice of Intent ("NOI") to Obtain Storm Water Permit coverage to the State Water Resources Control Board ("State Board"). *See* Storm Water Permit, Finding #3. The State Board confirmed receipt of Colton Facility Owners' and/or Operators' NOI to obtain Storm Water Permit coverage on January 14, 2002 ("NOI Receipt").⁴ The NOI Receipt identified the owner/operator of the Colton Facility as "Taormina Industries Inc." The NOI Receipt identifies the facility name and location as "Taormina Industries Inc. Inland, 2059 N Steel Rd, Colton, CA 92324." As of October 25, 2012, the State Board Storm Water Multiple Application & Report Tracking System 2 ("SMARTS") identifies the facility operator as "Taormina Industries Inc." at P.O. Box 309, Anaheim, California 92815. SMARTS identifies the facility name and location as "Inland Regional Material Recovery Facility and Transfer Station, 2059 N Steel Rd, Colton, California 92324," and lists the facility's coverage under the Storm Water Permit as "Active." The NOI Receipt and SMARTS list the Colton Facility WDID# as 8-36I017024.

Information available to Waterkeeper indicates that Taormina Industries Inc. is an owner and/or operator of the Colton Facility. Information available to Waterkeeper indicates that Taormina Industries, Inc. is a subsidiary of Republic Services, Inc. and/or Republic Waste Services of Southern California LLC. Information available to Waterkeeper also indicates that Republic Services, Inc. is an owner and/or operator of the Colton Facility. Information available to Waterkeeper also indicates that Republic Waste Services of Southern California LLC is an owner and/or operator of the Colton Facility. Waterkeeper refers to Taormina Industries, Inc., Republic Services, Inc., and Republic Waste Services of Southern California LLC collectively as the "Colton Facility Owners and/or Operators."

Information available to Waterkeeper indicates that Republic Services, Inc. is an active corporation registered in California. Information available to Waterkeeper indicates that Republic Waste Services of Southern California LLC is an active limited liability company registered in California. The Registered Agent for Taormina Industries, Inc., Republic Services, Inc., and Republic Waste Services of Southern California LLC is CT Corporation System, 818 West Seventh Street, Los Angeles, California 90017.

The Colton Facility Owners and/or Operators have discharged and continue to discharge pollutants unlawfully from the Colton Facility into the Receiving Waters. As explained herein, the Colton Facility Owners and/or Operators are liable for violations of the Storm Water Permit and the Clean Water Act.

C. Storm Water Pollution and the Receiving Waters

With every significant rainfall event millions of gallons of polluted storm water

⁴ Waterkeeper requested a copy of the Colton Facility Owners' and/or Operators' NOI from the State Board and the Regional Board via a Public Records Act request. No NOI was produced to Waterkeeper. Information currently available to Waterkeeper indicates that Colton Facility Owners and/or Operators have sought and are covered under the Storm Water Permit, however.

originating from industrial operations such as the Colton Facility pour into storm drains and the local waterways. The consensus among agencies and water quality specialists is that storm water pollution accounts for more than half of the total pollution entering surface waters each year. Such discharges of pollutants from industrial facilities contribute to the impairment of downstream waters and aquatic dependent wildlife. These contaminated discharges can and must be controlled for the ecosystem to regain its health.

Polluted discharges from waste transfer and recycling facilities such as the Colton Facility contain pollutants such as: oil and grease ("O & G"); hydraulic fluids; transmission fluid; antifreeze; solvents; detergents; water-based paint and solvents; aromatic hydrocarbons; chlorinated hydrocarbons; total suspended solids ("TSS"); and heavy metals (including copper, iron, lead, aluminum, and zinc). Many of these pollutants are on the list of chemicals published by the State of California as known to cause cancer, birth defects, developmental, or reproductive harm. Discharges of polluted storm water and non-storm water to the Receiving Waters via the storm drain system pose carcinogenic and reproductive toxicity threats to the public and adversely affect the aquatic environment.

The Receiving Waters are ecologically sensitive areas. Although pollution and habitat destruction have drastically diminished once-abundant and varied fisheries, the Receiving Waters are still essential habitat for dozens of fish and bird species as well as macro-invertebrate and invertebrate species. Storm water and non-storm water contaminated with sediment, heavy metals and other pollutants harm the special aesthetic and recreational significance that the Receiving Waters have for people in the surrounding communities. The public's use of the Receiving Waters for water contact sports exposes many people to toxic metals and other contaminants in storm water and non-storm water discharges. Non-contact recreational and aesthetic opportunities, such as wildlife observation, are also impaired by polluted discharges to the Receiving Waters.

The California Regional Water Quality Control Board, Santa Ana Region Regional Board ("Regional Board") issued the *Santa Ana River Basin Water Quality Control Plan* ("Basin Plan"). The Basin Plan identifies the "Beneficial Uses" of water bodies in the region. The Beneficial Uses for the Santa Ana River, which receives polluted storm water discharges from the Colton Facility include: Municipal and Domestic Supply ("MUN"); Agricultural Supply ("AGR"); Groundwater Recharge ("GWR"); Water Contact Recreation ("REC 1*"); Non-contact Water Recreation ("REC 2*"); Warm Freshwater Habitat ("WARM"); Wildlife Habitat ("WILD"); Rare, Threatened or Endangered Species ("RARE"); Cold Freshwater Habitat ("COLD"); and Spawning, Reproduction and Development ("SPWN"). See Basin Plan at Table 3-1. According to the 2010 303(d) List of Impaired Water Bodies, Reaches 2, 3, and 4 of the Santa Ana River are impaired for pollutants such as pathogens, cadmium, copper, lead, and indicator bacteria.⁵ Polluted discharges from industrial sites, such as the Colton Facility, contribute to the degradation of these already impaired surface waters and aquatic dependent wildlife.

⁵ 2010 Integrated Report – All Assessed Waters, available at: http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml, (last accessed on October 16, 2012).

II. The Colton Facility and Associated Discharges of Pollutants

A. Colton Facility Site Description

The Colton Facility provides commercial and residential solid waste and recyclable material pickup within the City of Colton and the outlying areas. Solid waste and recyclable materials are processed and transported from the Colton Facility to facilities that recycle and/or dispose of the solid waste materials. Information available to Waterkeeper indicates that the Standard Industrial Classification ("SIC") Code for the Colton Facility is 4953 (transfer station).

Information available to Waterkeeper indicates that the Colton Facility is 6.14 acres in size. Approximately 85% of the site is surfaced in impervious materials; structures account for approximately 12% of the site while 73% is comprised of paved areas. The 15% pervious area of the Colton Facility consists of landscaped portions and parking lots. Information available to Waterkeeper indicates that the Colton Facility includes a maintenance building and work area, a material recovery facility and solid waste processing building ("MRF"), outside waste staging areas, equipment and bins parking and storage areas, vehicle parking areas, a diesel refueling area, and a truck and equipment wash area.

Information available to Waterkeeper indicates that the maintenance building is a 3,200 sq. ft. building, where most chemicals used at the Colton Facility are stored, is located near the northern boundary of the Colton Facility. The majority of unloading, processing, and loading of municipal solid waste is performed within the MRF. Information available to Waterkeeper indicates that the MRF is located in the western portion of the Colton Facility. The outside waste staging area consists of paved areas in the vicinity of MRF where green and wood waste is processed and temporarily stored against K-rails, i.e. concrete barriers. Baled recyclable materials are also temporarily stored on the north side of the MRF and loaded in sea containers for transport off-site. Equipment and bins parking and storage areas are located on paved lots and an unpaved area in the eastern portion of the Colton Facility. Information available to Waterkeeper indicates that vehicle parking areas are located on paved areas adjacent to the MRF and the maintenance building. The diesel refueling area is located near the northern boundary of the Colton Facility, and consists of an above ground portable diesel fuel tank/container. Information available to Waterkeeper indicates that the truck and equipment wash area is located in the eastern portion of the Colton Facility at the edge of a paved area.

B. Colton Facility Industrial Activities and Pollutant Sources

Information available to Waterkeeper indicates that the following industrial activities are conducted at the Colton Facility: processing, loading, and unloading of solid waste and recyclable materials, including but not limited to household hazardous materials, electronic waste, and green/wood waste; storage of solid waste materials in bins and containers; truck, vehicle, and other equipment refueling, maintenance, and cleaning; outdoor waste staging; and solid waste and recyclable material baling and grinding. Information available to Waterkeeper indicates that Colton Facility Owners and/or Operators also store and/or generate hazardous wastes such oil, hydraulic fluid, transmission fluid, grease, antifreeze, waste absorbent,

household hazardous waste, and electronic waste.

Information available to Waterkeeper indicates that solid waste and recyclable materials collected at the Colton Facility are stored outdoors without adequate cover or containment, and near driveways leading from the Colton Facility to East Steel Road. Information available to Waterkeeper indicates that industrial operations at the Colton Facility are conducted outdoors without adequate cover to prevent storm water exposure to pollutant sources, and without secondary containment or other measures to prevent polluted storm water and prohibited non-storm water discharges from discharging from the Colton Facility.

Sources of pollutants associated with the industrial activities at the Colton Facility include, but are not limited to: solid waste and recyclable material storage areas; outdoor waste staging areas; truck and equipment wash and maintenance areas; parking areas; solid waste processing areas; loading and unloading areas; driveway areas; maintenance areas; refueling areas; office building(s); and on-site material handling equipment such as grinders, balers, forklifts, and trucks.

Information available to Waterkeeper also indicates that solid waste, green/wood waste, recyclable materials, and other pollutants have been and continue to be tracked throughout the Colton Facility operations areas. These pollutants accumulate at the solid waste storage areas, the loading and unloading areas, the outdoor waste staging areas, and the parking lot and the driveways leading onto East Steel Road. As a result, trucks and vehicles leaving the Colton Facility via staging areas and driveways are pollutant sources tracking sediment, dirt, O & G, metal particles, and other pollutants off-site.

C. Colton Facility Pollutants and Discharge Points

The pollutants associated with operations at the Colton Facility include, but are not limited to: heavy metals such as zinc, copper, lead, aluminum, iron, silver, mercury, cadmium, and selenium; O & G; diesel; TSS; pH-affecting substances; aromatic hydrocarbons; chemical oxygen demand; chlorinated hydrocarbons; organic carbons; ammonia; magnesium; arsenic; cyanide; and fugitive and other dust, dirt, and debris. The Colton Facility Owners' and/or Operators' failure to develop and/or implement required best management practices ("BMPs") results in the exposure of pollutants associated with their industrial activities to precipitation, and results in the discharge of polluted storm water from the Colton Facility into Receiving Waters in violation of the Storm Water Permit. The Colton Facility Owners' and/or Operators' failure to develop and/or implement required BMPs also results in prohibited discharges of non-storm water in violation of the Storm Water Permit and the Clean Water Act.

Information available to Waterkeeper indicates there are at least five storm water discharge points at the Colton Facility. The Colton Facility Owners and/or Operators identify two of these discharge points as: MP-1 and MP-2. MP-1 is located in the southwest corner of the Colton Facility. The Colton Facility Owners and/or Operators have identified that the Colton Facility receives run-on from an adjacent CalTrans property. Information available to Waterkeeper indicates that the run-on enters the Colton Facility from the northwest boundary

near MP-1. Information available to Waterkeeper indicates that discharge point MP-1 was previously identified by Colton Facility Owners and/or Operators as MRF-W. MP-2 is located at the southern border of the eastern paved, untreated portion of the Colton Facility adjacent to the facility driveway. Information available to Waterkeeper indicates that discharge point MP-2 was previously identified by Colton Facility Owners and/or Operators as MRF-E. Colton Facility Owners and/or Operators collect storm water samples from MP-1 and MP-2.

Colton Facility Owners and/or Operators identify a third discharge point located at the southeast border of the Colton Facility near MP-2, which discharges onto East Steel Road. Colton Facility Owners and/or Operators do not collect storm water samples from this discharge point.

Information available to Waterkeeper indicates that there is a fourth discharge point from the Colton Facility located on the southern boundary of the site near the MRF. Information available to Waterkeeper indicates that Colton Facility Owners and/or Operators have not identified this location as a discharge point from the Colton Facility.

Information available to Waterkeeper indicates that a fifth discharge point from the Colton Facility is located at the entrance and/or egress to East Steel Road from which trucks enter and/or exit the Colton Facility. Storm water discharges from this truck route to drop inlets to the storm drain system along East Steel Road, which discharge to the Receiving Waters. Information available to Waterkeeper indicates that oil, grease, fuel, metal shavings, and other pollutants are discharged from the Colton Facility via this discharge point.

Information available to Waterkeeper indicates that there are storm water swales along the north, west, and south boundaries of the Colton Facility, which direct flow to the south and southwest. Concrete ribbon gutters convey water towards East Steel Road. There are drop inlets to the storm drain system on East Steel Road. The drainage from the Colton Facility flows southwest towards the Santa Ana River via the storm drain system.

The Colton Facility Owners and/or Operators have not properly developed and/or implemented the required BMPs to address pollutant sources, to prevent the exposure of pollutants to storm water, and to prevent the subsequent discharge of polluted storm water from the Colton Facility during rain events. Consequently, during rain events, storm water carries pollutants from the Colton Facility's uncovered operations areas, uncovered piles, contaminated ground and floors, equipment, staging areas, sorting areas, loading and unloading areas, parking lots, and other sources into the storm sewer system on and adjacent to the Colton Facility, which flows into the Receiving Waters.

Colton Facility Owners' and/or Operators' failure to adequately develop and/or implement required BMPs has also caused the discharge of prohibited non-storm water from the Colton Facility to Receiving Waters. These illegal discharges negatively impact Waterkeeper's members' use and enjoyment of the Receiving Waters by degrading the quality of the Receiving Waters, and by posing risks to human health and aquatic life.

III. Violations of the Clean Water Act and the Storm Water Permit

A. Discharges of Polluted Storm Water from the Colton Facility in Violation of Effluent Limitation B(3) of the Storm Water Permit

Effluent Limitation (B)(3) of the Storm Water Permit requires dischargers to reduce or prevent pollutants associated with industrial activity in storm water discharges through implementation of BMPs that achieve best available technology economically achievable ("BAT") for toxic pollutants⁶ and best conventional pollutant control technology ("BCT") for conventional pollutants.⁷ EPA Benchmarks are relevant and objective standards for evaluating whether a permittee's BMPs achieve compliance with BAT/BCT standards as required by Effluent Limitation B(3) of the Storm Water Permit.⁸

Storm water sampling at the Colton Facility demonstrates that storm water discharges from the facility contain concentrations of pollutants above the EPA Benchmarks.⁹ *See, e.g.*, Exhibit A. For example, on December 12, 2011 a storm water sample taken at the Colton Facility from discharge point MP-1 contained a concentration of TSS at 136 mg/L, 1.36 times the daily maximum effluent limit for TSS; on December 12, 2011 a storm water sample taken at the Colton Facility from discharge point MP-2 contained a concentration of TSS at 102 mg/L, 1.02 times the daily maximum effluent limit for TSS; on December 12, 2011 a storm water sample taken at the Colton Facility from discharge point MP-1 contained a concentration of aluminum at 3.74 mg/L, 4.99 times the daily maximum effluent limit for aluminum; on December 12, 2011 a storm water sample taken at the Colton Facility from discharge point MP-2 contained a concentration of aluminum at 3.97 mg/L, 5.29 times the daily maximum effluent limit for aluminum; on December 12, 2011 a storm water sample taken at the Colton Facility from discharge point MP-1 contained a concentration of O & G at 36.3 mg/L, 2.42 times the daily maximum effluent limit for O & G; on December 12, 2011 a storm water sample taken at the Colton Facility from discharge point MP-2 contained a concentration of O & G at 39.6 mg/L, 2.64 times the daily maximum effluent limit for O & G. Data available to Waterkeeper indicate dozens of sample results exceeding the EPA Benchmarks. The repeated and significant exceedances of EPA Benchmarks demonstrate that the Colton Facility Owners and/or Operators have failed to develop and/or implement required BMPs at the Colton Facility that achieve compliance with the BAT/BCT standards.

Information available to Waterkeeper indicates that each time there is a significant rain event storm water discharges from the Colton Facility violate Effluent Limitation B(3) of the

⁶ Toxic pollutants are listed at 40 C.F.R. § 401.15 and include copper, lead, and zinc, among others.

⁷ Conventional pollutants are listed at 40 C.F.R. § 401.16 and include BOD, TSS, oil and grease, pH, and fecal coliform.

⁸ *See United States Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP) Authorization to Discharge Under the National Pollutant Discharge Elimination System*, as modified effective February 26, 2009 ("Multi-Sector Permit"), Fact Sheet at 106; *see also*, 65 Federal Register 64839 (2000).

⁹ EPA Benchmarks for certain pollutants, including copper and zinc, are hardness dependent. *See Multi-Sector Permit*, Fact Sheet at 101-102.

Storm Water Permit.¹⁰ Colton Facility Owners' and/or Operators' discharge violations of the Storm Water Permit are identified in Exhibit B. These discharge violations are ongoing and will continue each time the Colton Facility Owners and/or Operators discharge polluted storm water without developing and/or implementing BMPs that achieve compliance with the BAT/BCT standards. Waterkeeper will update the number and dates of violations when additional information and data become available. Each time the Colton Facility Owners and/or Operators discharge polluted storm water in violation of Effluent Limitation (B)(3) of the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). The Colton Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since November 19, 2007.

B. Discharges of Polluted Storm Water from the Colton Facility in Violation of Receiving Water Limitations C(1) and C(2) of the Storm Water Permit

Receiving Water Limitation C(1) of the Storm Water Permit prohibits storm water discharges and authorized non-storm water discharges to surface water or groundwater that adversely impact human health or the environment. Discharges that contain pollutants in concentrations that exceed levels known to adversely impact aquatic species and the environment constitute violations of Receiving Water Limitation C(1) of the Storm Water Permit and the Clean Water Act. Receiving Water Limitation C(2) of the Storm Water Permit prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of an applicable WQS.¹¹ Discharges that contain pollutants in excess of an applicable WQS violate Receiving Water Limitation C(2) of the Storm Water Permit and the Clean Water Act.¹²

Available data demonstrates the storm water discharges from the Colton Facility contain elevated concentrations of pollutants such as copper and zinc, which can be acutely toxic and/or have sub-lethal impacts on the avian and aquatic wildlife in the Receiving Waters. *See, e.g.,* Exhibit A. Storm water sampling at the Colton Facility also demonstrates that discharges contain concentrations of pollutants that cause or contribute to a violation of an applicable WQS. For example, the CTR WQS for copper is 0.013 mg/L, and a sample of the storm water discharge from the Colton Facility on December 12, 2011 contained copper at a concentration of 0.05 mg/L, 3.85 times the WQS. The CTR WQS for zinc is 0.12 mg/L, and a sample taken at the Colton Facility discharge point MP-1 on December 12, 2011 contained a concentration of 1.08 mg/L of zinc, 9 times the WQS; a sample taken at the Colton Facility discharge location MP-2 on December 12, 2011 contained a concentration of 0.96 mg/L of zinc, 8 times the WQS; a

¹⁰ A significant rain event is an event that produces storm water runoff, which according to the United States Environmental Protection Agency occurs with 0.1 inches or more of precipitation. *See* United States Environmental Protection Agency, NPDES Storm Water Sampling Guidance Document, July 1992. Significant rain events at the Colton Facility listed in Exhibit B were recorded at the San Bernardino County Flood Control District rain gauge identified as Site/Sensor ID 2820 (<http://www.sbcounty.gov/trnsprtn/pwg/alert/showsite.html?ID=2820>).

¹¹ WQS include pollutant concentration levels determined by the State Water Resources Control Board and the EPA to be protective of the Beneficial Uses of the receiving waters. Discharges above WQS contribute to the impairment of the receiving waters' Beneficial Uses. Applicable WQS include, among others, the Criteria for Priority Toxic Pollutants in the State of California, 40 C.F.R. § 131.38 ("CTR").

¹² WQS for certain pollutants, including copper and zinc, are hardness dependent. *See* 40 C.F.R. § 131.38.

sample taken on at the Colton Facility discharge location MP-1 on January 4, 2011 contained a concentration of 0.73 mg/L of zinc, 6.08 times the WQS. The repeated and significant exceedances of CTR limits demonstrate that the Colton Facility Owners and/or Operators have violated and continue to violate Receiving Water Limitation C(1) and/or Receiving Water Limitation C(2).

Information available to Waterkeeper indicates that each time there is a significant rain event storm water discharges from the Colton Facility violate Receiving Water Limitation C(1) and/or Receiving Water Limitation C(2). Colton Facility Owners' and/or Operators' discharge violations of the Storm Water Permit are identified in Exhibit B. These discharge violations are ongoing and will continue each time contaminated storm water is discharged in violation of the Receiving Water Limitations of the Storm Water Permit. Waterkeeper will update the number and dates of violation when additional information becomes available. Each time discharges of storm water from the Colton Facility adversely impact human health or the environment is a separate and distinct violation of Receiving Water Limitation C(1) of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). Each time discharges of storm water from the Colton Facility cause or contribute to a violation of an applicable WQS is a separate and distinct violation of Receiving Water Limitation C(2) of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). The Colton Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since November 19, 2007.

C. Discharges of Non-Storm Water from the Colton Facility in Violation of Discharge Prohibition A(1)

Except as authorized by Special Conditions D(1) of the Storm Water Permit, Discharge Prohibition A(1) of the Storm Water Permit prohibits permittees from discharging materials other than storm water (non-storm water discharges) either directly or indirectly to waters of the United States. Prohibited non-storm water discharges must be either eliminated or permitted by a separate NPDES permit. *See* Storm Water Permit, Discharge Prohibition A(1).

Information available to Waterkeeper indicates that Colton Facility Owners and/or Operators use water for dust control and/or surface washing at the Colton Facility, and that water from Colton Facility Owners' and/or Operators' dust control and/or surface washing discharges from the Colton Facility to the Receiving Waters via the storm drain system. Fugitive dust, dirt, and/or debris also discharges from the Colton Facility when Colton Facility Owners and/or Operators chip and/or grind green/wood waste outdoors without adequate cover or containment. Thus information available to Waterkeeper indicates that prohibited non-storm water discharges discharge from the Colton Facility to the Receiving Waters in violation of Discharge Prohibition A(1) when Colton Facility Owners and/or Operators perform dust control and/or surface washing, and when Colton Facility Owners and/or Operators chip and/or grind waste materials outdoors. Waterkeeper observed Colton Facility Owners' and/or Operators' violations of Discharge Prohibition A(1) on September 25, 2012. Waterkeeper believes the use of water for dust control and/or surface washing and chipping and/or grinding are ongoing business practices at the Colton Facility. Because additional discharges from the Colton Facility are from the same

source and are of the same nature as the discharges described herein, Waterkeeper anticipates obtaining additional information regarding additional dates of Colton Facility Owners' and/or Operators' violations of Discharge Prohibition A(1).

Each time the Colton Facility Owners and/or Operators discharge prohibited non-storm water discharges in violation of Discharge Prohibition A(1) of the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and Clean Water Act. These violations are ongoing and will continue each time the Colton Facility Owners and/or Operators discharge prohibited non-storm water discharges to the Receiving Waters from the Colton Facility. Waterkeeper will include additional violations when additional information and data become available. The Colton Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since November 19, 2007.

D. Failure to Develop, Implement and/or Revise an Adequate Storm Water Pollution Prevention Plan

Section A(1) and Provision E(2) of the Storm Water Permit requires dischargers to have developed and implemented a SWPPP by October 1, 1992, or prior to beginning industrial activities, that meets all of the requirements of the Storm Water Permit. The objective of the SWPPP requirement is to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges from the Colton Facility, and to implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. Storm Water Permit, Section A(2). These BMPs must achieve compliance with the Storm Water Permit's Effluent Limitations and Receiving Water Limitations. To ensure compliance with the Storm Water Permit, the SWPPP must be evaluated on an annual basis pursuant to the requirements of Section A(9). The SWPPP must also be revised as necessary to ensure compliance with the Storm Water Permit. *Id.*, Sections A(9) and A(10).

Sections A(3) – A(10) of the Storm Water Permit set forth the requirements for a SWPPP. Among other things, the SWPPP must include: a site map showing the facility boundaries, storm water drainage areas with flow patterns, nearby water bodies, the location of the storm water collection, conveyance and discharge system(s), structural control measures, areas of actual and potential pollutant contact, and areas of industrial activity (*see* Section A(4)); a list of significant materials handled and stored at the site (*see* Section A(5)); a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities; a description of significant spills and leaks, a list of all non-storm water discharges and their sources; and a description of locations where soil erosion may occur (*see* Section A(6)). Sections A(7) and A(8) require an assessment of potential pollutant sources at the facility and a description of the BMPs to be implemented at the facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective.

Information available to Waterkeeper indicates that the Colton Facility Owners and/or Operators have been conducting and continue to conduct operations at the Colton Facility with

an inadequately developed, implemented, and/or revised SWPPP. First, the SWPPP for the Colton Facility fails to include an adequate site map. The site map included with the Colton Facility SWPPP fails to identify all discharge locations in violation of Section A(4) of the Storm Water Permit. Further, the drainage areas identified on the Colton Facility site map fail to correspond to the drainage areas described at section 4.0 – “Storm Water Drainage Patterns and Sampling Locations” – of the SWPPP. The site map lists the drainage areas as “Drainage Area 1” and “Drainage Area 2,” while section 4.1 of the SWPPP lists the drainage areas as “Section I” and “Section II.” Waterkeeper’s review of the site map and SWPPP indicates that different industrial activities occur within “Drainage Area 1” and “Drainage Area 2” and drainage areas “Section I” and “Section II.” Given this inconsistency, Colton Facility Owners and/or Operators have failed to adequately describe the drainage areas at the Colton Facility in violation of Section A(4) of the Storm Water Permit.

Second, the SWPPP fails to include an adequate list of significant materials handled and stored at the site or an adequate description of potential pollutant sources including industrial processes, material handling, and storage areas. For example, the SWPPP fails to list electronic waste as a significant material handled and stored at the Colton Facility, but the site map indicates that there is an “e-waste” storage area near the northern boundary of the Colton Facility. In addition, Table 1 – “List of Significant Materials” – and section 10.0 – “Potential Pollutant Sources and Corresponding BMPs” – of the SWPPP fail to list hazardous wastes stored, but not generated, at the Colton Facility. However, the description of the MRF at section 6.0 of the SWPPP includes storage and handling of household hazardous materials. Nor does section 6.0 of the SWPPP list “grinder” or “grinding” as an industrial process with corresponding BMPs conducted as part of the Colton Facility industrial activities. Yet the SWPPP site map indicates that a “grinder” is located in the southwest corner of the Colton Facility. Because Colton Facility Owners and/or Operators fail to identify all pollutant sources and industrial processes at the Colton Facility, the SWPPP fails to develop and/or implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges as required.

Finally, Colton Facility Owners and/or Operators have failed and continue to fail to revise or evaluate the SWPPP as necessary to develop and implement adequate BMPs, and to develop and/or implement a SWPPP that contains adequate BMPs to prevent the exposure of pollutant sources to storm water and adequate BMPs to prevent the subsequent discharge of polluted storm water from the Colton Facility. For example, Waterkeeper’s review of Regional Board documents indicates that Colton Facility Owners and/or Operators most recent SWPPP submitted to the Regional Board is dated June 2010. However, since June 2010, polluted storm water has discharged from the Colton Facility on dozens of occasions evidencing that Colton Facility Owners and/or Operators have inadequately developed and/or implemented BMPs at the Colton Facility. *See* Exhibit A and Exhibit B. Colton Facility Owners’ and/or Operators’ annual site inspections have also put Colton Facility Owners and/or Operators on notice that existing BMPs established under the current SWPPP have failed to prevent storm water exposure to pollutants.

Every day the Colton Facility Owners and/or Operators operate the Colton Facility with an inadequately developed, implemented, and/or revised SWPPP is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The Colton Facility Owners and/or Operators have been in daily and continuous violation of the Storm Water Permit's SWPPP requirements since at least November 19, 2007. These violations are ongoing, and Waterkeeper will include additional violations when additional information and data become available. The Colton Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since November 19, 2007.

E. Failure to Develop, Implement, and/or Revise an Adequate Monitoring and Reporting Program

Section B(1) and Provision E(3) of the Storm Water Permit require facility operators to develop and implement an adequate monitoring and reporting plan ("M&RP") by October 1, 1992, or prior to the commencement of industrial activities at a facility, that meets all of the requirements of the Storm Water Permit. The primary objective of the M&RP is to detect and measure the concentrations of pollutants in a facility's discharge to ensure compliance with the Storm Water Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. *See* Storm Water Permit, Section B(2). The M&RP must therefore ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility, and are evaluated and revised whenever appropriate to ensure compliance with the Storm Water Permit. *See id.* Dischargers must also revise the M&RP to ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility. *See id.*, *see also* Section B(4).

Sections B(3) through B(16) of the Storm Water Permit set forth the M&RP requirements. Specifically, Section B(3) requires dischargers to conduct quarterly visual observations of all drainage areas within their facility for the presence of authorized and unauthorized non-storm water discharges. Section B(4) requires dischargers to conduct visual observations of storm water discharges during the first hour of discharge at each discharge point of at least one storm event per month during the Wet Season. Sections B(3) and (4) further require dischargers to document the presence of any floating or suspended material, oil and grease, discolorations, turbidity, odor and the source of any pollutants. Dischargers must maintain records of observations, observation dates, locations observed, and responses taken to eliminate unauthorized non-storm water discharges and to reduce or prevent pollutants from contacting non-storm water and storm water discharges. Storm Water Permit, Sections B(3) and (4). Dischargers must also revise the SWPPP to ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility. *Id.*, Section B(4).

Sections B(5) and (7) of the Storm Water Permit require dischargers to visually observe and collect samples of storm water discharges from all locations where storm water is discharged. The Colton Facility is a member of the Republic Services, Inc. Group Monitoring Program, and thus the Colton Facility Owners and/or Operators must comply with the group monitoring provisions set forth in Section B(15) of the Storm Water Permit. Under Section B(15) of the Storm Water Permit, the Colton Facility Owners and/or Operators are required to collect at least two samples from each discharge point at the Colton Facility over a five year period. *See*

Storm Water Permit, Section B(5), B(7), and B(15). Storm water samples shall be analyzed for TSS, pH, specific conductance, total organic carbon or O & G, toxic chemicals and other pollutants that are likely to be present in significant quantities in the discharges. *Id.*, Section B(5)(c). The Colton Facility, as a solid waste collection, recycling, resource recovery and bulk waste transfer facility classified as SIC Code 4953, must also analyze storm water samples for ammonia, magnesium, chemical oxygen demand, arsenic, cadmium, cyanide, lead, mercury, selenium, and silver. *See id*; *see also* Storm Water Permit, Table D, Sector K.

Information available to Waterkeeper indicates that the Colton Facility Owners and/or Operators have been conducting operations at the Colton Facility with an inadequately developed, implemented, and/or revised M&RP. For example, in violation of Section B(4) Colton Facility Owners and/or Operators failed to conduct visual observations of storm water discharges from all discharge points from one storm event per month during the 2008-2009 and 2007-2008 Wet Seasons. Because the Colton Facility Owners and/or Operators failed to take visual observations of storm water discharges as required, they also failed to document the presence of any floating or suspended material, O & G, discolorations, turbidity, odor or the source of any pollutants, in violation of Section B(4) of the Storm Water Permit.

In violation of Section B(5), Colton Facility Owners and/or Operators failed to collect storm water samples from the first storm event of the Wet Season. For example, the first qualifying storm event of the 2007-2008 Wet Season occurred on November 30, 2007. *See* Exhibit B. However, Colton Facility Owners and/or Operators failed to collect a storm water sample on that date.

Information available to Waterkeeper indicates that the Colton Facility Owners and/or Operators have failed to collect storm water discharge samples from each of the Colton Facility's five discharge points, as required by Section B(5), Section B(7), and Section B(15) of the Permit. While the Colton Facility Owners and/or Operators collected storm water samples during the 2011-2012, 2008-2009, and 2007-2008 Wet Seasons, only two discharge points were sampled during each sampling year. In their SWPPP, Colton Facility Owners and/or Operators have separated the Colton Facility into two sample areas: Section I and Section II. Information available to Waterkeeper also indicates that on the Colton Facility site map Colton Facility Owners and/or Operators have identified "Drainage Area 1" and "Drainage Area 2" at the facility. Waterkeeper's review of the Colton Facility SWPPP and site map indicates that Colton Facility Owners and/or Operators conduct different industrial activities and employ different BMPs within Section I and Section II and Drainage Area 1 and Drainage Area 2 of the Colton Facility. Thus, the Colton Facility Owners' and/or Operators' failure to collect storm water samples from each discharge location is a violation of Section B(7) of the Storm Water Permit.

Section B(5)(c) of the Storm Water Permit requires the Colton Facility Owners and/or Operators to analyze their storm water samples for Table D parameters, as the Colton Facility is classified as SIC Code 4953. The Colton Facility Owners and/or Operators, however, never analyze storm water samples from the Colton Facility for ammonia, magnesium, arsenic, cadmium, cyanide, mercury, selenium, or silver, which are the applicable Table D parameters.

Thus, the Colton Facility Owners and/or Operators have failed and continue to fail to sample as required by the Storm Water Permit.

The Colton Facility Owners' and/or Operators' failure to conduct sampling and monitoring as required by the Storm Water Permit demonstrates that they have failed to develop, implement and/or revise an M&RP that complies with the requirements of Section B and Provision E(3) of the Storm Water Permit. Every day that the Colton Facility Owners and/or Operators conduct operations in violation of the specific monitoring and reporting requirements of the Storm Water Permit, or with an inadequately developed, implemented, and/or revised M&RP, is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The Colton Facility Owners and/or Operators have been in daily and continuous violation of the Storm Water Permit's M&RP requirements every day since at least November 19, 2007. These violations are ongoing, and Waterkeeper will include additional violations when additional information and data become available. The Colton Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since November 19, 2007.

F. Failure to Comply with the Storm Water Permit's Reporting Requirements

Section B(14) of the Storm Water Permit requires a permittee to submit an Annual Report to the Regional Board by July 1 of each year. The Storm Water Permit, in relevant part, requires that the Annual Report include the following: 1) a summary of visual observations and sampling results, 2) an evaluation of the visual observation and sampling and analysis results and the laboratory reports; and 3) the Annual Comprehensive Site Compliance Evaluation Report. Section B(14). As part of the Annual Comprehensive Site Compliance Evaluation, which must be included in the Annual Report, the facility operator shall review and evaluate all of the BMPs to determine whether they are adequate or whether SWPPP revisions are needed. *See* Storm Water Permit Section A(9). The Annual Report shall be signed and certified by a duly authorized representative, under penalty of law that the information submitted is true, accurate, and complete to the best of their knowledge. *See* Storm Water Permit, Sections B(14), C(9), and C(10).

Since at least July 1, 2008, the Colton Facility Owners and/or Operators have failed to submit Annual Reports that comply with the Storm Water Permit reporting requirements. For example, Colton Facility Owners and/or Operators certify in their Annual Reports that: (1) a complete Annual Comprehensive Site Compliance Evaluation was done pursuant to Section A(9) of the Storm Water Permit; (2) the SWPPP's BMPs address existing potential pollutant sources; and (3) the SWPPP complies with the Storm Water Permit, or will otherwise be revised to achieve compliance. However, information available to Waterkeeper, including a review of the Regional Board's files and the Colton Facility storm water sampling data, indicates that the Colton Facility Owners' and/or Operators' certifications are erroneous. The Colton Facility Owners and/or Operators have not developed and/or implemented required BMPs, or revised the SWPPP. These failures result in the ongoing discharge of storm water containing pollutant levels in violation of the Storm Water Permit limitations, and the ongoing discharge of prohibited non-storm water discharges.

Colton Facility Owners and/or Operators have also submitted Annual Reports with inaccurate information. For example, Colton Facility Owners and/or Operators certified that the first storm event of the 2007-2008 Wet Season was sampled. The first samples collected from storm water discharges from the Colton Facility during the 2007-2008 Wet Season are dated January 4, 2008. But information available to Waterkeeper, including Colton Facility Owners and/or Operators visual inspection reports, indicates that the first storm event of the 2007-2008 Wet Season occurred on November 30, 2007. *See Exhibit B.* Further, in the 2007-2008 and 2008-2009 Annual Reports, Colton Facility Owners and/or Operators certified that Table D does not list additional parameters to be sampled for the Colton Facility SIC Code – 4953. However, Table D of the Storm Water Permit lists ammonia, magnesium, chemical oxygen demand, arsenic, cadmium, cyanide, lead, mercury, selenium, and silver as additional sampling parameters applicable to SIC code 4953 facilities.¹³ Further, in the 2011-2012 Annual Report, Colton Facility Owners and/or Operators certified that Table D parameters did apply to discharges from the Colton Facility. The sampling results included in the 2011-2012 Annual Report do not include results for the applicable Table D parameters, however.

Colton Facility Owners and/or Operators have also submitted incomplete Annual Reports. For instance, in the 2009-2010 Annual Report, Colton Facility Owners and/or Operators failed to report the number of discharge locations at the facility, as that section of the annual report was left blank. Absent this information, the accuracy of the remainder of the 2009-2010 Annual Report cannot be determined. As another example, the 2010-2011 and 2011-2012 Annual Reports are not signed by a responsible corporate officer, as required by Storm Water Permit Section C(9).

Colton Facility Owners and/or Operators also failed and continue to fail to provide the explanations required by the Annual Report when there is non-compliance with the Storm Water Permit's terms. For example, Colton Facility Owners and/or Operators fail to explain in their Annual Reports why discharges from the Colton Facility have not been analyzed for all of the parameters set out in Table D of the Storm Water Permit applicable to SIC code 4953, as is required by Section B(5)(c)(iii) of the Storm Water Permit. Nor have Colton Facility Owners and/or Operators provided an explanation as to why storm water samples are not collected from all discharge points at the Colton Facility, as required by Section B(7) of the Storm Water Permit.

Finally, the Storm Water Permit requires a permittee whose discharge exceeds the Storm Water Permit Receiving Water Limitations to submit a written report identifying what additional BMPs will be implemented to achieve water quality standards. Storm Water Permit, Receiving Water Limitations C(3) and C(4). Information available to Waterkeeper indicates that the Colton Facility Owners and/or Operators have failed to submit the reports required by Receiving Water

¹³ The first page of the 2007-2008 Annual Report indicates that Table D includes additional sampling parameters applicable to the Colton Facility. However, a handwritten note on that portion of the report crosses out the statement that Table D parameters apply, and states that except for COD the Table D parameters were not part of the Colton Facility Owners' and/or Operators' sampling "protocol." In contrast, at Section E.10. of the 2007-2008 Annual Report, Colton Facility Owners and/or Operators certify that Table D includes no additional applicable parameters.

Limitations C(3) and C(4) of the Storm Water Permit. As such, the Colton Facility Owners and/or Operators are in daily violation of this requirement of the Storm Water Permit.

Each of the failures to report as required discussed above is a violation of the Storm Water Permit, and indicates a continuous and ongoing failure to comply with the Storm Water Permit's reporting requirements. Every day the Colton Facility Owners and/or Operators operate the Colton Facility without reporting as required by the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). The Colton Facility Owners and/or Operators have been in daily and continuous violation of the Storm Water Permit's reporting requirements every day since at least November 19, 2007. These violations are ongoing. The Colton Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since November 19, 2007.

IV. Relief and Penalties Sought for Violations of the Clean Water Act

Pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Clean Water Act subjects the violator to a penalty for all violations occurring during the period commencing five years prior to the date of a notice of intent to file suit letter. These provisions of law authorize civil penalties of up to \$32,500 per day per violation for all Clean Water Act violations between March 15, 2004 and January 12, 2009, and \$37,500 per day per violation for all Clean Water Act violations after January 12, 2009. In addition to civil penalties, Waterkeeper will seek injunctive relief preventing further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), declaratory relief, and such other relief as permitted by law. Lastly, pursuant to Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), Waterkeeper will seek to recover its costs, including attorneys' and experts' fees, associated with this enforcement action.

V. Conclusion

Upon expiration of the 60-day notice period, Waterkeeper will file a citizen suit under Section 505(a) of the Clean Water Act for the Colton Facility Owners' and/or Operators' violations of the Storm Water Permit. During the 60-day notice period, however, Waterkeeper is willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions please contact Waterkeeper. Please direct all communications to Waterkeeper's legal counsel:

Daniel Cooper
daniel@lawyersforcleanwater.com
Caroline Koch
caroline@lawyersforcleanwater.com
Lawyers for Clean Water, Inc.
1004-A O'Reilly Avenue
San Francisco, California 94129
Tel: (415) 440-6520

Sincerely,

A handwritten signature in black ink, appearing to read "Colin Kelly", with a long horizontal flourish extending to the right.

Colin Kelly
Staff Attorney
Inland Empire Waterkeeper
Orange County Coastkeeper

SERVICE LIST

VIA U.S. CERTIFIED MAIL

Lisa Jackson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Thomas Howard
Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, California 95812

Jared Blumenfeld
Regional Administrator
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, California 94105

Kurt Berchtold
Executive Officer
Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, California 92501

Exhibit A: Exceedances of EPA Benchmarks and Water Quality Standards Reported by Colton Facility Owners and/or Operators

	Sampling Date	Sampling Location	Parameter	Unit	Colton Facility Sampling Result	EPA Benchmark	WQS	Exceedance Magnitude: Benchmark /WQS
1.	12/12/2011	MP-1	Specific Conductance	umhos /cm	344	200		1.72
2.	12/12/2011	MP-1	TSS	mg/L	136	100		1.36
3.	12/12/2011	MP-1	Aluminum	mg/L	3.74	0.75		4.99
4.	12/12/2011	MP-1	Iron	mg/L	5.4	1.00		5.4
5.	12/12/2011	MP-1	Zinc	mg/L	1.08	0.12	0.120	9.00/9.00
6.	12/12/2011	MP-1	Copper	mg/L	0.05	0.0123	0.013	4.07/3.85
7.	12/12/2011	MP-1	Chemical Oxygen Demand	mg/L	732	120		6.10
8.	12/12/2011	MP-1	Oil & Grease	mg/L	36.3	15		2.42
9.	12/12/2011	MP-2	TSS	mg/L	102	100		1.02
10.	12/12/2011	MP-2	Aluminum	mg/L	3.97	0.75		5.29
11.	12/12/2011	MP-2	Iron	mg/L	4.04	1.00		4.04
12.	12/12/2011	MP-2	Zinc	mg/L	0.96	0.12	0.120	8.00/8.00
13.	12/12/2011	MP-2	Copper	mg/L	0.04	0.0123	0.013	3.25/3.08
14.	12/12/2011	MP-2	Chemical Oxygen Demand	mg/L	438	120		3.65
15.	12/12/2011	MP-2	Oil & Grease	mg/L	39.6	15		2.64
16.	11/4/2011	MP-1	TSS	mg/L	584	100		5.84
17.	11/4/2011	MP-1	Aluminum	mg/L	14.1	0.75		18.80
18.	11/4/2011	MP-1	Iron	mg/L	16.2	1.00		16.20
19.	11/4/2011	MP-1	Zinc	mg/L	0.73	0.12	0.120	6.08/6.08
20.	11/4/2011	MP-1	Copper	mg/L	0.07	0.0123	0.013	5.69/5.38
21.	11/4/2011	MP-1	Chemical Oxygen Demand	mg/L	558	120		4.65
22.	11/4/2011	MP-1	Oil & Grease	mg/L	17.2	15		1.15
23.	11/4/2011	MP-2	TSS	mg/L	138	100		1.38
24.	11/4/2011	MP-2	Aluminum	mg/L	3.36	0.75		4.48
25.	11/4/2011	MP-2	Iron	mg/L	3.76	1.00		3.76
26.	11/4/2011	MP-2	Copper	mg/L	0.03	0.0123	0.013	2.44/2.31
27.	11/4/2011	MP-2	Chemical Oxygen Demand	mg/L	313	120		2.61
28.	12/15/2008	MRF-W	TSS	mg/L	200	100		2.00
29.	12/15/2008	MRF-E	TSS	mg/L	120	100		1.20
30.	12/15/2008	MRF-E	Chemical Oxygen Demand	mg/L	130	120		1.08

	Sampling Date	Sampling Location	Parameter	Unit	Colton Facility Sampling Result	EPA Benchmark	WQS	Exceedance Magnitude: Benchmark /WQS
31.	1/21/2008	MRF-W	Specific Conductance	umhos /cm	780	200		3.90
32.	1/21/2008	MRF-W	TSS	mg/L	370	100		3.70
33.	1/21/2008	MRF-W	Chemical Oxygen Demand	mg/L	510	120		4.25
34.	1/21/2008	MRF-E	Specific Conductance	umhos /cm	480	200		2.40
35.	1/21/2008	MRF-E	TSS	mg/L	300	100		3.00
36.	1/21/2008	MRF-E	Chemical Oxygen Demand	mg/L	340	120		2.83
37.	1/4/2008	MRF-W	Specific Conductance	umhos /cm	350	200		1.75
38.	1/4/2008	MRF-W	TSS	mg/L	530	100		5.30
39.	1/4/2008	MRF-W	Chemical Oxygen Demand	mg/L	490	120		4.08
40.	1/4/2008	MRF-W	Oil & Grease	mg/L	28	15		1.87
41.	1/4/2008	MRF-E	Specific Conductance	umhos /cm	270	200		1.35
42.	1/4/2008	MRF-E	TSS	mg/L	260	100		2.60
43.	1/4/2008	MRF-E	Chemical Oxygen Demand	mg/L	260	120		2.17

**Exhibit B: Table of Alleged Dates of Storm Water Permit and Clean Water Act
Violations November 2007 to October 2012 for the Colton Facility**

Date	Day of Week	Precipitation
10/12/12	Friday	0.28
7/13/12	Friday	0.16
4/26/12	Thursday	0.55
4/13/12	Friday	0.31
4/12/12	Thursday	0.2
4/1/12	Sunday	0.12
3/26/12	Monday	0.15
3/25/12	Sunday	0.24
3/18/12	Sunday	0.23
3/17/12	Saturday	0.79
2/27/12	Monday	0.28
2/15/12	Wednesday	0.2
1/23/12	Monday	0.24
1/21/12	Saturday	0.39
12/12/11	Wednesday	0.43
11/20/11	Sunday	0.79
5/18/11	Wednesday	0.35
3/28/11	Monday	0.51
3/23/11	Wednesday	0.2
2/26/11	Saturday	1.03
2/25/11	Friday	0.31
2/19/11	Saturday	0.79
2/18/11	Friday	0.35
2/16/11	Wednesday	0.24
1/31/11	Monday	0.55
1/30/11	Monday	0.51
1/2/11	Sunday	0.2
12/30/10	Thursday	0.39
12/26/10	Friday	0.24
12/22/10	Wednesday	2.95
12/21/10	Tuesday	1.97
12/20/10	Monday	2.6
12/19/10	Sunday	2.4
12/18/10	Saturday	0.28
12/17/10	Friday	0.11
12/16/10	Thursday	0.24
12/6/10	Monday	0.19
12/5/10	Sunday	0.28

Date	Day of Week	Precipitation
11/28/10	Sunday	0.12
11/21/10	Sunday	0.16
11/20/10	Saturday	0.55
11/8/10	Monday	0.28
10/25/10	Monday	0.28
10/21/10	Thursday	0.12
4/29/10	Thursday	0.2
4/22/10	Thursday	0.28
4/12/10	Monday	0.71
4/5/10	Monday	0.16
3/7/10	Sunday	1.33
3/6/10	Saturday	0.28
3/4/10	Thursday	0.2
2/27/10	Saturday	1.22
2/22/10	Monday	0.23
2/21/10	Sunday	0.16
2/9/10	Tuesday	0.35
2/6/10	Saturday	1.34
2/5/10	Friday	0.16
1/26/10	Tuesday	0.24
1/22/10	Friday	1.65
1/21/10	Thursday	1.66
1/20/10	Wednesday	2.32
1/19/10	Tuesday	0.48
1/18/10	Monday	0.9
1/17/10	Sunday	0.16
12/22/09	Tuesday	0.28
12/13/09	Sunday	0.11
12/12/09	Saturday	1.3
12/11/09	Friday	0.24
12/7/09	Monday	0.94
11/28/09	Saturday	0.39
3/23/09	Monday	0.16
2/17/09	Tuesday	0.16
2/16/09	Monday	1.02
2/13/09	Friday	0.28
2/9/09	Monday	0.98
2/8/09	Sunday	0.28
2/7/09	Saturday	0.59
2/6/09	Friday	0.39

Date	Day of Week	Precipitation
2/5/09	Thursday	0.16
1/24/09	Saturday	0.12
12/25/08	Thursday	0.59
12/22/08	Monday	0.12
12/17/08	Wednesday	0.98
12/15/08	Monday	1.54
11/26/08	Wednesday	1.3
5/23/08	Friday	0.24
5/22/08	Thursday	0.51
2/24/08	Sunday	0.12
2/22/08	Friday	0.98
2/20/08	Wednesday	0.55
2/3/08	Sunday	0.91
1/28/08	Monday	0.35
1/27/08	Sunday	0.63
1/24/08	Thursday	0.15
1/23/08	Wednesday	0.16
1/8/08	Tuesday	2.52
1/6/08	Sunday	2.17
1/5/08	Saturday	1.19
1/4/08	Friday	0.31
12/20/07	Thursday	0.12
12/19/07	Wednesday	0.27
12/18/07	Tuesday	0.12
12/7/07	Friday	1.14
11/30/07	Friday	2.4